



devon **audit** partnership

Internal Audit Report
Port Marine Safety Code
Tor Bay Harbour Authority
November 2017

OFFICIAL



Auditing for achievement

Devon Audit Partnership

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1 Introduction

The 'Port Marine Safety Code (PMSC)' establishes a national standard for every aspect of port marine safety and aims to enhance safety for those who use or work in ports, their ships, passengers and the environment. The code applies to all harbour authorities in the UK that have statutory powers and duties.

The Devon Audit Partnership is the appointed 'Designated Person' for the Tor Bay Harbour Authority for 2017/18.

2 Audit Opinion

In our opinion the Tor Bay Harbour Authority is compliant with the requirements of the Port Marine Safety Code.

3 Executive Summary

We have examined a restricted sample of records relating to the Tor Bay Harbour Authority and its compliance with the requirements of the Port Marine Safety Code, and obtained such explanations and carried out such tests as we consider necessary.

To the best of our knowledge and belief, and having carried out appropriate checks, in our opinion the Tor Bay Harbour Authority is compliant with the Port Marine Safety Code. It is pleasing to note that progress has been made against the previous year's recommendations although some remain outstanding and have been re-reported.

We have noted areas where additional action is required (refer to Appendix A).

The detailed findings and recommendations regarding these issues and less important matters are described in the Appendices. Recommendations have been categorised to aid prioritisation. Definitions of the priority categories and the assurance opinion ratings are also given in the Appendices to this report.

4 Assurance Opinion on Specific Sections

The following table summarises our assurance opinions on each of the risks covered during the audit. These combine to provide the overall assurance opinion at Section 2. Definitions of the assurance opinion ratings can be found in the Appendices.

Risk Covered		Level of Assurance
1	Breach of Port Marine Safety Code	Good Standard

The findings and recommendations in relation to each of these areas are discussed in the "Detailed Audit Observations and Action Plan" appendix. This appendix records the action plan agreed by management to enhance the internal control framework and mitigate identified risks where agreed.

5 Issues for the Annual Governance Statement

The evidence obtained in internal audit reviews can identify issues in respect of risk management, systems and controls that may be relevant to the Annual Governance Statement.

There are no issues arising from this review that would warrant inclusion within the Annual Governance Statement.

6 Scope and Objectives

Devon Audit Partnership undertook a review and assessment of the Tor Bay Harbour Authority against the requirements as specified in the Department for Transport's Port Marine Safety Code, and the associated Port Marine Safety Code Guide to Good Practice.

7 Inherent Limitations

The opinions and recommendations contained within this report are based on our examination of restricted samples of transactions / records and our discussions with officers responsible for the processes reviewed.

8 Acknowledgements

We would like to express our thanks and appreciation to all those who provided support and assistance during the course of this audit.

Robert Hutchins
Head of Partnership

Appendix A

Detailed Audit Observations and Action Plan

1. Risk Covered: Breach of Port Marine Safety Code	Level of Assurance
<p>Opinion Statement:</p> <p>In our opinion Tor Bay Harbour Authority is compliant with the requirements of the Port Marine Safety Code. The PMSC was subject to an update in February 2017 and notification of this has been issued to all three harbour offices. Although compliant, there are some areas where action would further strengthen the control framework.</p> <p>As in previous years, we found the Tor Bay Harbour Authority staff to be knowledgeable and positively engaged in maintaining compliance with the Port Marine Safety Code (PMSC). Staff were supportive of the review process and were active in providing the supporting evidence.</p> <p>It was evident that Duty Holders were aware of their responsibilities and that performance against the code is monitored. A formal structure to evidence regular performance review would be of benefit through implementation of a standing agenda item at Harbour Committee meetings. The Harbour Committee act as the 'Duty Holder' for the purposes of the Port Marine Safety Code. All committee members and advisors are responsible for compliance with the Code, which is set out in their terms of reference and published on the Tor Bay Harbour website. Commitment to the PMSC is set out in the 'Safety Management System' which is presented to the Tor Bay Harbour Committee annually along with the outcome of the PMSC compliance audit which is undertaken in November each year. The 'Designated Person' appointed to undertake the PMSC compliance audit is appointed by the Tor Bay Harbour Committee.</p> <p>The Secretary of State for Transport has approved the Harbour Directions (Designation of Harbour Authorities) Order 2017 which came into force from 6 April 2017. The Order authorises Tor Bay Harbour Authority to give harbour directions in respect of ships in accordance with sections 40A to 40D of the Harbours Act 1964. It has not been necessary to make any changes or amendments to date.</p> <p>Byelaws have been established and are published on the Harbour website. A breach of the byelaws can result in fines that are limited by scale; however, for more serious breaches alternative legislation such as the Merchant Shipping Act (Collision Regulations) is available to enable a greater degree of prosecution and financial penalties. Warnings are given to harbour users where necessary however requires retention of supporting documentation to evidence that the warning has been accepted or not by the user.</p> <p>A Port Masterplan has been established and is designed to assist regional and local planning bodies and transport network providers in preparing / revising their own strategic developments. The Masterplan sets out the development opportunities for the Tor Bay Harbour Authority and the expected timelines for implementation. The previously defined SWOT analysis undertaken in 2013 is due for review in 2018. At this time we would suggest that the review incorporates consideration of and linkage to the Port Marine Safety Code.</p>	<p>Good Standard</p>

As previously reported there are a number of plans on the website that are out of date, this includes the Emergency Plan which needs to be reviewed and updated and will now need to include a reference to the new work boat at Brixham. The UK's National Contingency Plan, which provides a strategic overview for responses to marine pollution from shipping and offshore installations, was updated in August 2017; this now refers to the new Business Energy and Industrial Strategy which encompasses the responsibilities of the now merged Energy and Climate Change department and Business Innovation and Skills.

The Tor Bay Harbour Safety Policy has been adopted by the Harbour Committee and measures Health and Safety performance, which is reported to the Harbour Committee annually. The Safety Management System (SMS) records marine based risks and links to risks held on the Council's IT network.

Risks should be reviewed annually and updated when a need has been identified, however as detailed later in the report there remain a number of risks that are overdue for review. The SMS system is designed to show risks ALARP (as low as reasonably practicable) by colour coding the risks as per their severity.

A number of Standard Operating Procedures(SOP) have been established and continue to be developed and updated as needs are identified. During this audit we have identified that it would be appropriate to review the need for a risk assessment and/or SOP in relation to the new workboat at Brixham. The boat is currently restricted to use in the enclosed harbour only due to the lack of a Small Vessel Certificate. We were unable to identify any training records to confirm that any of the staff at Brixham harbour hold the necessary RYA certificates, along with valid endorsements, to operate the new workboat as per the MCA Code of Practice. This issue links to the need to maintain the training records.

Pilotage / tugs are provided under contract by a local company, as identified in last year's audit, a new contract had been drawn up but remains unsigned. We understand that there are issues around the signing of the contract and the Harbour Authority need to pursue this matter to ensure that agreement is gained and appropriate contractual documentation is in place. Towage Guidelines have been established and published on the Tor Bay Harbour website. The Pilotage Manual still requires completion and appropriate review/approval.

All accidents / incidents / near misses are reported quarterly to the Harbour Committee. These reports are produced from MarNIS. There remain some system weaknesses in relation to logical access controls on MarNIS and these have been re-reported to the software provider.

System controls within the SMS ensure that any serious / fatal accident / incident are reported to the Marine Accident Investigation Branch (MAIB) who will then carry out an investigation. Investigations are also held locally and reviewed at Management Team meetings with the appropriate action then being taken.

Trinity House undertake an annual audit of all navigational aids with any issues reported back to the Tor Bay Harbour Authority, who then provide written confirmation that all issues / defects have been rectified; however this year we were unable to obtain copies to confirm this position.

As previously reported, there is still a need to improve record keeping of training and to publish hydrographic survey information.

A Tor Bay Harbour Business Plan has been established and is published on the Tor Bay Harbour website and is subject to annual review. We noted that the situation regarding the slipway remains ongoing and that there were two incidents of falls into the harbour, and have made recommendations accordingly.		
No.	Observation and implications	
1.1	Although there is clear commitment to the code and performance is reported on an annual basis, the PMSC is not currently a standing item on the agenda for the Harbour Committee meetings.	
	Recommendation	Priority Management response and action plan including responsible officer
1.1.1	It was previously agreed that the PMSC would be combined with the Accident and Incident statistics agenda item going forward, as a standing agenda item for the Harbour Committee meetings, however a review of committee meeting minutes shows that this remains outstanding.	Low Agreed – this will be added to agenda – KM Jan 18
No.	Observation and implications	
1.2	<p>Work still needs to be undertaken on the outer sections of Princess Pier, this is due to take place this winter.</p> <p>The steps used for the passenger ferries at Torbay have had additional hand rails installed following an incident whereby a passenger fell in the water and also knocked in a member of the ferry staff.</p> <p>The steps on the outer wall of Princess Pier have been removed and filled in due to the damage they sustain. However, chains have subsequently been attached to the outside of the wall in response to a young girl falling in whilst crabbing. As the steps had been removed she had no easy way of getting out, there are safety rings around the harbour / pier and one was used to hoist her out, whilst the harbour boat had been deployed she had been safely removed by the time they got there.</p> <p>The pontoons on the Torquay town dock have been damaged by one of the ferries and this is currently going through the insurers, the intention is to use the monies to improve the facility rather than replace / repair it which will reduce the risk of damage in the future.</p> <p>The decking along Beacon Quay is now in a bad state of repair, this has already been identified and it is planned to remove and replace during the winter.</p> <p>As previously reported, the end of the slipway had fallen away. We understand that there is currently a warning notice on the wall of the slipway. We understand that the slipway issue has been raised with the engineers and is still being evaluated by the contractors. They have put in some bench marks and are monitoring the movement.</p>	

	Recommendation	Priority	Management response and action plan including responsible officer
1.2.1	The resolution of the known slipway hazard should continue to be pursued. We acknowledge that this is a known hazard which harbour staff are monitoring and pursuing but are reliant on external contractors in terms of a resolution.	High	Agreed – management / staff to continue to monitor and pursue with external contractor.
1.2.2	Although it is clear that action has been taken to provide further safety measures following two incidents of falls into the harbour, we would recommend that consideration be given to updating the existing 'Edge Protection Policy' and associated 'Edge Audit Record'.	Medium	Agreed - the policy will be reviewed to ensure it is sufficient and all relevant legislation is current, the audit will also need to be updated – April 18 SP
No.	Observation and implications		
1.3	An enforcement policy has been established and was presented and approved by the Harbour Committee however the date on the policy has not been amended to reflect the latest review. Additionally whilst the policy is available on the Tor Bay Harbour website the policy there is dated 2012.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.3.1	The enforcement policy should reflect the most current review and the latest policy should be added to the website and the old one removed.	Low	Agreed – SP Dec 17
No.	Observation and implications		
1.4	We are satisfied that breaches of byelaws or other legislation are recorded and reported to the Harbour Master using a standard incident form. In one sample we identified a warning which had been issued to a harbour user, however we could not see any evidence that the harbour user had accepted and signed the warning.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.4.1	All warnings should be signed as either accepted or not by the relevant harbour user.	Low	Agreed – some warnings may be sent by letter so will be reliant on the person to respond, where no response has been received this will be logged going forward – staff to be reminded at Harbour Managers meeting.
No.	Observation and implications		
1.5	The Tor Bay Harbour website has a page for publications; this provides numerous pieces of information mostly in the form of reports and plans. It was noted that the majority of these reports / plans are several years old, some plans have been updated and the page does not reflect the current plans.		

	Recommendation	Priority	Management response and action plan including responsible officer
1.5.1	The Harbour web pages should be fully reviewed to ensure that all reports and plans are current thus ensuring the public has up to date and current information.	Low	Agreed, this is currently being addressed – SP completion by April 18
No.	Observation and implications		
1.6	Contractors are required to complete and sign a contractor's pass. A pass that we sampled was signed by the contractor but the tear off pass section at the bottom had not been signed. This is more of an administration issue rather than any direct impact on safety.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.6.1	All contractor passes should be fully completed and signed off as required.	Low	Agreed – staff will be reminded at the Harbour Managers Meeting, they will then pass on – KM Dec 17
No.	Observation and implications		
1.7	As previously reported there are a number of risk assessments outside of the MarNIS system that are in need of review, there is nothing to indicate that this has been undertaken. The document register within MarNIS shows that a number of risk assessments / documents that are either overdue for review of due for review soon.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.7.1	As previously agreed all risk assessments should be reviewed annually, additionally the document register should be reviewed to ensure that where applicable all documents are reviewed within the agreed timeframe.	Low	Agreed – a new risk assessment document has been drawn up for risk assessments outside of MarNIS, all of these risk assessments should be in the new format / updated by April 18 – SP
No.	Observation and implications		
1.8	<p>As previously reported the MarNIS system, which is used to record all risk assessments / accidents / incidents / training etc, has no system controls linked to access i.e. all staff have the same level of access.</p> <p>It was anticipated that a pending system update would include an audit trail functionality whereby transactions can be attributed to users through view of an on screen provision, whilst there is a properties tab that shows who set up the record and who last updated it, the audit trail does not show all details, it is anticipated that the next software update will resolve this issue.</p> <p>This will provide some element of mitigation; however the risk remains that the system access cannot be appropriately restricted. Early resolution of this issue in full would require a system modification at significant cost to the Harbour Authority.</p>		

	Recommendation	Priority	Management response and action plan including responsible officer
1.8.1	Tor Bay Harbour Authority should either accept the risks (with the upgrade audit trail provision) or progress the modification to provide full system access controls.	Medium	Agreed – risk accepted but a new software release is expected in 2018 that will resolve this issue.
No.	Observation and implications		
1.9	Although a number of key harbour staff have undertaken risk management training, the Brixham harbour training was last undertaken in 2006. As the recommendation is for a three yearly refresher training process, further engagement in the training for Brixham harbour staff would ensure all staff are trained to current practices, and provide consistency in terms of the processes operated.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.9.1	It would be prudent to have a currently trained risk assessor at Brixham, especially as this is the largest port, operates largely with the fishing industry and the port is getting increasingly busy.	Medium	Agreed – once the new Harbour Master is in place they will identify a member of staff to be trained – April 18
No.	Observation and implications		
1.10	As previously reported there are a number of risk assessments that are in need of review. The Safety Management System document list the dates for review, it was noted that some of these dates differ to the dates in the system.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.10.1	The Safety Management System manual should be updated to reflect the correct date of all reviews for risk assessments thus ensuring that the Harbour Committee is presented with accurate information.	Low	Agreed – a new single Port Marine Safety Officer role is to be established, linked to this a dashboard it to be developed which will identify the owner of risk assessments / SOP's / accidents / incidents etc. this will ensure that all reviews are picked up and actioned, the manual will then be updated to reflect current dates / reviews – SP March 18
No.	Observation and implications		
1.11	A list of standard operating procedures is held and staff are appropriately aware of them. They have been formulated to link to risks and work practices identified by Harbour staff and Management. Brixham now has a workboat which is currently restricted to use within the enclosed harbour pending the provision of a Small Vessel Certificate, however in addition to this the use of the workboat has not yet been subject to a review regarding the need for a specific risk assessment and/or an appropriate SOP.		

	We have also identified that 'fly boarding' is becoming a popular activity in the Bay. This activity has not yet been subject to any formal risk assessment process and associated standard operating procedure.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.11.1	The use of the Brixham workboat should be the subject of a review to consider the need for a specific risk assessment and SOP. We understand that there are similar risk assessments and SOP's for other workboats in operation so it may be that these can be used.	High	Agreed – current workboat Risk Assessment / SOP to be reviewed to ensure it is suitable for the new Brixham boat and amend if necessary or create new documents – DB Jan 18
1.11.2	Fly boarding activity should be the subject of a formal risk assessment and if necessary an associated SOP formulated.	Low	Agreed – SP April 18
No.	Observation and implications		
1.12	It was previously recommended and agreed that the Pilotage Manual would be completed and sent for review / approval, it has been confirmed this remains outstanding.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.12.1	The Pilotage Manual needs to be updated, issued for comments and finalised.	Low	Agreed – SP April 18
No.	Observation and implications		
1.13	<p>RYA commercially endorsed certificates of competency need to be revalidated every 5 years, this includes obtaining a certificate in Professional Practices and Responsibilities along with providing a valid (in date) medical certificate.</p> <p>The Deputy Harbour Master at Torquay has recently completed his renewal however the other staff still have to finalise theirs.</p> <p>There is nothing in the training matrix to confirm that any of the staff at Brixham harbour hold a current endorsed certificate, nor is there evidence that staff at Brixham hold the necessary RYA certificates to operate the work boat as per MCA guidelines.</p> <p>The Training Matrix held for all three harbour sites provides details of essential or desirable training required for posts held. These do not appear to have been kept up to date as there are a number of areas where re-training is out of date.</p> <p>It was previously agreed that the medical certificates needed for the RYA endorsed certificates would be added to the matrix however this remains outstanding.</p>		

	Recommendation	Priority	Management response and action plan including responsible officer
1.13.1	Management should ensure that all necessary staff are trained to operate the work boats and where applicable revalidate their certificates.	High	Agreed – all relevant staff should be trained by April 18
1.13.2	The Training Matrix should be updated to show when the last medical fitness certificates were obtained and when they are due for renewal. Additionally the harbour management should ensure that all training records are kept up to date and if necessary any re-training needed re booked and any i-training required is undertaken.	High	Agreed – the new Harbour Master to assign a member of staff to take specific responsibility for reviewing and updating the training matrix – April 18
No.	Observation and implications		
1.14	Work boats are required to hold a MECAL certificate; this is the Certifying Authority that provide a survey and certification of the commercial vessels used by the Council. It has been confirmed that the new workboat at Brixham does not currently hold the appropriate certificate.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.14.1	Management should ensure that the workboat at Brixham has the necessary certificate and until this is obtained the boat must not leave the limits of the enclosed harbour.	High	Agreed – this is being pursued – DB
No.	Observation and implications		
1.15	Trinity House undertake an annual audit of the aids to navigation in Tor Bay and any deficiencies are reported back to the Harbour Master. However, we were unable to confirm any details of a current audit or any required actions resulting from it.		
	Recommendation	Priority	Management response and action plan including responsible officer
1.15.1	Management should ensure that the details of the navigation aid audit are held centrally and that any deficiencies found have been actioned and records of actions are held.	Low	Agreed – records have since been located. Also, Trinity House to be updated with details of the new Harbour Master who will take responsibility for this – March 18
No.	Observation and implications		
1.16	The newly updated PMSC states that 'A harbour authority has a duty to conserve the harbour so that it is fit for use as port, this duty covers several specific requirements' and goes on to state 'hydrographic information is published in a timely manner'. No reference to the publishing of hydrographic information could be found on the Tor Bay Harbour website.		

	Recommendation	Priority	Management response and action plan including responsible officer
1.16.1	As previously agreed, links to the publication of relevant and current hydrographic information should be made available on the Tor Bay Harbour website.	Low	Agreed – copies of the latest surveys has been sent to the web team to add to the website. However, this data is routinely published in a variety of ways via commercial chart providers.
No.	Observation and implications		
1.17	<p>As previously reported there are a number of plans on the website that are out of date, this includes the Emergency Plan, this needs to be reviewed and updated and will now need to include a reference to the new workboat at Brixham.</p> <p>The UK’s National Contingency Plan, which provides a strategic overview for responses to marine pollution from shipping and offshore installations, was updated in August 2017; this now refers to the new Business Energy and Industrial Strategy which encompasses the responsibilities of the now merged Energy and Climate Change department and Business Innovation and Skills.</p>		
	Recommendation	Priority	Management response and action plan including responsible officer
1.17.1	The Emergency plan should be updated and published. Additionally a copy of the latest National Contingency Plan should be obtained and held centrally so that all necessary staff are aware of the changes.	Low	Agreed – KA April 18

Definitions of Audit Assurance Opinion Levels

Assurance	Definition
High Standard.	The system and controls in place adequately mitigate exposure to the risks identified. The system is being adhered to and substantial reliance can be placed upon the procedures in place. We have made only minor recommendations aimed at further enhancing already sound procedures.
Good Standard.	The systems and controls generally mitigate the risk identified but a few weaknesses have been identified and / or mitigating controls may not be fully applied. There are no significant matters arising from the audit and the recommendations made serve to strengthen what are mainly reliable procedures.
Improvements required.	In our opinion there are a number of instances where controls and procedures do not adequately mitigate the risks identified. Existing procedures need to be improved in order to ensure that they are fully reliable. Recommendations have been made to ensure that organisational objectives are not put at risk.
Fundamental Weaknesses Identified.	The risks identified are not being controlled and there is an increased likelihood that risks could occur. The matters arising from the audit are sufficiently significant to place doubt on the reliability of the procedures reviewed, to an extent that the objectives and / or resources of the Council may be at risk, and the ability to deliver the service may be adversely affected. Implementation of the recommendations made is a priority.

Definition of Recommendation Priority

Priority	Definitions
High	A significant finding. A key control is absent or is being compromised; if not acted upon this could result in high exposure to risk. Failure to address could result in internal or external responsibilities and obligations not being met.
Medium	Control arrangements not operating as required resulting in a moderate exposure to risk. This could result in minor disruption of service, undetected errors or inefficiencies in service provision. Important recommendations made to improve internal control arrangements and manage identified risks.
Low	Low risk issues, minor system compliance concerns or process inefficiencies where benefit would be gained from improving arrangements. Management should review, make changes if considered necessary or formally agree to accept the risks. These issues may be dealt with outside of the formal report during the course of the audit.
Opportunity	A recommendation to drive operational improvement which may enable efficiency savings to be realised, capacity to be created, support opportunity for commercialisation / income generation or improve customer experience. These recommendations do not feed into the assurance control environment.

Confidentiality under the National Protective Marking Scheme

Marking	Definitions
Official	The majority of information that is created or processed by the public sector. This includes routine business operations and services, some of which could have damaging consequences if lost, stolen or published in the media, but are not subject to a heightened threat profile.
Secret	Very sensitive information that justifies heightened protective measures to defend against determined and highly capable threat actors. For example, where compromise could seriously damage military capabilities, international relations or the investigation of serious organised crime.
Top Secret	The most sensitive information requiring the highest levels of protection from the most serious threats. For example, where compromise could cause widespread loss of life or else threaten the security or economic wellbeing of the country or friendly nations.